

1 THERESA A. GOLDNER, COUNTY COUNSEL  
2 COUNTY OF KERN, STATE OF CALIFORNIA  
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10 Attorneys for Respondent/Defendant,  
11 County of Kern

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 IN AND FOR THE COUNTY OF KERN

14 COMMUNITY RECYCLING &  
15 RESOURCE RECOVERY, INC., a  
16 California corporation and LAMONT  
17 PUBLIC UTILITY DISTRICT, a public  
18 entity,

19 Petitioners/Plaintiffs,

20 v.

21 COUNTY OF KERN, a public entity,  
22 and DOES 1 - 100, inclusively,

23 Respondents/Defendants.

CASE NO. S-1500-CV-275272 EB

NOTICE OF ORDER GRANTING EX  
PARTE APPLICATION FOR STAY OF  
ADMINISTRATIVE ORDER REVOKING  
CONDITIONAL USE PERMIT


Action filed: November 22, 2011

24 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

25 You are hereby notified that on April 16, 2012 the Honorable J. Eric Bradshaw  
26 signed and the Clerk filed the Order Granting Ex Parte Application for Stay of  
27 Administrative Order Revoking Conditional Use Permit, a copy of which is attached hereto  
28 as Exhibit "A".

Dated: April 17, 2012

THERESA A. GOLDNER, COUNTY COUNSEL

By   
Charles F. Collins, Deputy  
Attorney for Respondent/Defendant  
County of Kern

#20G4251.WPD

100:RGZ

Notice of Order Granting Ex Parte Application for Stay of Administrative Order Revoking  
Conditional Use Permit

# **EXHIBIT “A”**

1 THERESA A. GOLDNER, COUNTY COUNSEL  
2 COUNTY OF KERN, STATE OF CALIFORNIA  
3 By: Teri A. Bjorn, Chief Deputy (SBN 87915)  
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6 Attorneys for Respondent/Defendant,  
County of Kern

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF KERN

APR 16 2012

TERRY McNALLY, CLERK  
BY \_\_\_\_\_ DEPUTY

ENDORSED

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF KERN

11 COMMUNITY RECYCLING &  
12 RESOURCE RECOVERY, INC., a  
13 California corporation and LAMONT  
PUBLIC UTILITY DISTRICT, a public  
entity,

14 Petitioners/Plaintiffs,

15 v.

16 COUNTY OF KERN, a public entity,  
17 and DOES 1 - 100, inclusively,

18 Respondents/Defendants.

CASE NO. S-1500-CV-275272 EB

ORDER GRANTING EX PARTE  
APPLICATION FOR STAY OF  
ADMINISTRATIVE ORDER REVOKING  
CONDITIONAL USE PERMIT

Action filed: November 22, 2011

21 Petitioners/Plaintiffs Community Recycling & Resource Recovery, Inc.'s and Lamont  
22 Public Utility District's Ex Parte Application for Stay of Administrative Order Revoking  
23 Conditional Use Permit came on for hearing on February 6, 2012, at 1:30 p.m. in  
24 Department T-2, the Honorable J. Eric Bradshaw, Judge presiding. Respondent/Defendant  
25 County of Kern ("County") appeared by and through the Office of County Counsel, Deputy  
26 County Counsel Charles F. Collins and Chief Deputy County Counsel Teri A. Bjorn.  
27 Petitioner/Plaintiff Community Recycling & Resource Recovery, Inc. ("CRRR") appeared  
28 by and through its counsel, Richard G. Zimmer and T. Mark Smith, Clifford & Brown, and

Order Granting Ex Parte Application for Stay of Administrative Order Revoking Conditional Use Permit

1 John B. Marshall, Lewitt, Hackman, Shapiro, Marshall & Harlan. Petitioner/Plaintiff Lamont  
2 Public Utility District appeared by and through its counsel, Larry Peake, Wall, Wall &  
3 Peake.

4 After reviewing the written submissions of the parties and hearing oral argument,  
5 the Court orders as follows:

6 IT IS HEREBY ORDERED:

7 1. All matters arising out of the November 15, 2011 determination of the Kern  
8 County Board of Supervisors revoking the Conditional Use Permit (CUP No. 27, Map No.  
9 143) of CRRR, including, but not limited to, the Notices of Abatement issued by the Kern  
10 County Engineering, Surveying and Permit Services Department, are stayed until judgment  
11 is entered in this matter or this case is otherwise resolved;

12 2. This stay shall remain in effect only so long as CRRR fully complies, and  
13 maintains compliance, with all conditions of use and orders required under Conditional Use  
14 Permit No. 27, Map No. 143, including without limitation, such conditions and orders as  
15 were imposed in July 2010 and those in effect immediately prior to County's revocation of  
16 Conditional Use Permit No. 27, Map No. 143, including the order that CRRR must initiate  
17 and fund the preparation of an Environmental Impact Report ("EIR");

18 3. During the time that this matter is stayed pursuant to this Order, CRRR shall:  
19 (1) operate its compost facility located at 1261 North Wheeler Ridge Road, Lamont,  
20 California, in accordance with the conditions of approval set forth in Conditional Use Permit  
21 No. 27, Map No. 143 as set forth in the documents attached hereto as Exhibit "A", including  
22 all orders of the Kern County Board of Supervisors in effect immediately prior to County's  
23 revocation of Conditional Use Permit No. 27, Map No. 143; (2) initiate and fund the  
24 preparation of an EIR in accordance with all orders of the Kern County Board of  
25 Supervisors in effect immediately prior to County's revocation of Conditional Use Permit  
26 No. 27, Map No. 143; and (3) accept only those specified feed stocks and amendments  
27 in the amounts described on that document entitled, "Table 1: Existing Category  
28

1 Descriptions and Tonnage Limits", which is attached hereto as Exhibit "B".

2 4. CRRR and the County shall cooperate, communicate and act in good faith  
3 relating to the initiation, funding and processing of the EIR ordered by the Kern County  
4 Board of Supervisors. The Court expects that all acts necessary to begin preparation of  
5 the EIR will be completed not later than April 6, 2012. The parties anticipate that this EIR  
6 will be prepared, circulated and ready for presentation at a hearing before the Kern County  
7 Board of Supervisors by the end of August 2013.

8 5. CRRR's application for modification of Conditional Use Permit No. 27, Map  
9 No. 143 has been previously deemed complete.

10 6. CRRR has signed the "Agreement for Processing of Environmental Impact  
11 Report for Community Recycling & Resource Recovery Project by WZI, Inc." and has paid  
12 the required deposit of \$295,097 to initiate the EIR. If the County of Kern prevails in this  
13 lawsuit and the revocation of CUP No. 27, Map No. 143 is upheld, any unexpended  
14 amounts of CRRR's deposit shall be returned to CRRR, after any amounts already earned  
15 by the consultant preparing the EIR have been paid as set forth in the "Agreement for  
16 Processing of Environmental Impact Report for Community Recycling & Resource  
17 Recovery Project by WZI, Inc."

18  
19 DATED: APR 16 2012

**ERIC BRADSHAW**

HONORABLE J. ERIC BRADSHAW  
JUDGE OF THE SUPERIOR COURT

20  
21  
22  
23 #20E0750.WPD  
24  
25  
26  
27  
28

# **EXHIBIT “A”**

## **CRRR Resolution Key**

(Approval History and Current Conditions of Approval for CUP 27, Map 143)

<b>07/08/1993</b> BZA Hearing	<b>Original Approval of CUP</b> Resolution 72-93 adopted with 45 conditions of approval.
<b>08/30/1993</b> BOS Hearing	<b>Appeal of Original Approval of CUP (approval upheld by BOS)</b> Resolution 93-585 adopted denying appeal and upholding BZA decision. Also modified conditions 12, 30 and added 46.
<b>03/11/1999</b> PC Hearing	<b>Modification No. 1 of CUP</b> Resolution 72-93 amended to revise condition no. 36 and ADD conditions 47 through 51
<b>05/25/2000</b> PC Hearing	<b>Modification No. 2 of CUP</b> Resolution 72-93 amended again to revise condition No. 31 and ADD conditions 52 and 53

**Original Approval of CUP**

**07/08/1993**

BZA Hearing

Resolution No. 72-93

adopted with 45 conditions of approval.



BEFORE THE BOARD OF ZONING ADJUSTMENT  
COUNTY OF KERN, STATE OF CALIFORNIA

---

In the matter of:

RESOLUTION NO. 72-93

APPLICATION FOR CONDITIONAL USE PERMIT CASE NO. 27, MAP NO. 143

W/s of Wheeler Ridge Rd, approx. 1/2 mi S of Bear Mtn Blvd  
3 1/2 mi S of Lamont  
Community Recycling and Resource Recovery, Inc., by Dennis Judd

FINDINGS AND DETERMINATION

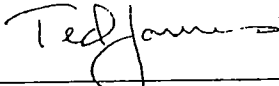
I, Ted James, Secretary of the Board of Zoning Adjustment of the County of Kern, State of California, do hereby certify that the following resolution, proposed by Mr. Young, seconded by Mrs. Barbich, was duly passed and adopted by said Board of Zoning Adjustment at an official meeting hereof this 8th day of July, 1993, by the following vote, to wit:

AYES: Aitken, Barbich, Young

NOES: Schroeder

ABSTAINED: Zimmerman

ABSENT: Meek

  
\_\_\_\_\_  
SECRETARY OF THE BOARD OF ZONING ADJUSTMENT  
COUNTY OF KERN, STATE OF CALIFORNIA

---

R E S O L U T I O N

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and

(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Department of Planning and Development Services has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.365 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

APN: 185-350-53 & 54

The W/2 of Sec 25, EXCEPTING the N 1,750 ft thereof, & the SE/4 of Sec 25, T31S, R28E, MDB&M, County of Kern, State of California; and

(f) Said application has been made pursuant to provisions of Chapter 19.104 of said Ordinance Code, and requests a conditional use permit as provided in Section 19.12.030.H, insofar as said requirements are applicable to the aforescribed parcel of real property, and more particularly to allow a composting facility, in an A (Exclusive Agriculture) District; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Board, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Board has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Board; and

(i) Said notice of hearing stated that a Negative Declaration, prepared by the Lamont Public Utilities District, will be presented which states that the activity in question will not have a significant effect on the environment and that an environmental impact report is, therefore, not required under the provisions of the California Environmental Quality Act and that it is proposed to dispense with any environmental impact report in the consideration of such matter; and

(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Department of Planning and Development Services and all persons so desiring were duly heard; and

(k) During said hearing and prior to consideration of the merits of said matter, this Board called for any objections to the dispensing with an environmental impact report or to said Negative Declaration; and

(l) This Board has considered the recommendation of the Department of Planning and Development Services and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Zoning Adjustment of the County of Kern, as follows:

(a) This Board finds that the facts recited above are true and that this Board has jurisdiction to consider the subject of this resolution; and

(b) This Board hereby adopts said Negative Declaration and Mitigation Measure Monitoring Programs and, after careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Board of Zoning Adjustment that the application herein described be, and it is hereby, A P P R O V E D, with development to be in substantial conformity with the plan as presented, subject to the following conditions:

- (1) All necessary building permits must be obtained.
- (2) Fire flows and fire protection facilities shall be as required and approved by the Kern County Fire Department.
- (3) Prior to commencement of operation, the applicant shall provide a plan for the disposal of drainage waters originating on site and from adjacent road rights-of-way, subject to the approval of the Engineering and Survey Services Department, per the Kern County Subdivision Standards.
- (4) Prior to commencement of operation, the applicant's engineer shall provide a study that demonstrates the off-site drainage and/or flood waters are received and discharged in basically the same location and manner as prior to development. Should diversion of water be necessary as part of a comprehensive plan, sufficient work shall be done upstream and downstream to provide other affected properties at least the same level of flood protection as prior to development.
- (5) Prior to commencement of operation, the applicant's engineer shall provide a study that mitigates the potential for the addition of floatable substances and/or debris from this project to the flood flows of Caliente Creek, as determined, and to be approved by the Engineering and Survey Services Department.
- (6) Prior to commencement of operation, the plan shall be reviewed and approved by the responsible mosquito abatement district.
- (7) The development shall comply with any requirements of the San Joaquin Valley Unified Air Pollution Control District.
- (8) The applicant shall record an irrevocable offer of dedication to the State of all subject property within 55 feet (major highway alignment) of the centerline of Bear Mountain Boulevard. Should the State refuse the offer, it shall be made to the County.
- (9) Under encroachment permit issued by CalTrans, the applicant shall improve the project frontage as required by the State. Improvements may include widening and channelization.
- (10) Prior to commencement of operations, the applicant shall submit a modified plot plan detailing the location and size of the office and laboratory. Additional parking spaces may be required as a result of this review.
- (11) No structures shall be located within 70 feet of the north/south midsection line of the project section.
- (12) The applicant shall submit documentation from the Kern County Environmental Health Services Department that operations may commence prior to the granting of a formal exemption for a Solid Waste Facility permit.
- \*(13) A note shall be placed on the grading plan that acknowledges that a preconstruction biota survey shall be conducted prior to ground disturbance. Any listed mitigation measures shall be complied with prior to ground disturbance.
- \*(14) Prior to commencement of operations, a berm shall be constructed for the purpose of diverting flood waters and protecting the project. Design of the berm will be subject to the approval of Engineering and Survey Services.
- \*(15) Any compost made from Lamont Public Utilities District (PUD) biosolids will remain on District owned property or be used after notifying and gaining approval from the Regional Water Quality Control Board.
- \*(16) Dust control will be used to reduce the effects of wind and traffic on roads, and windrows will be maintained to prevent spreading by high winds.
- \*(17) Engineering design and operating permit design requirements as specified by the Waste Discharge Requirements will be strictly adhered to.
- (18) No composting activities of any type shall occur on the easterly 160 acres denoted on the plot plan as "emergency effluent storage" (APN 185-350-55).

- (19) Prior to commencement of operations, the applicant shall obtain all permits and comply with any requirements of the Regional Water Quality Control Board, and any other responsible federal, State, or local agency.
- (20) Security fencing, as approved by the Kern County Department of Planning and Development Services, shall be constructed around the perimeter of the composting site.
- (21) All vehicle access roads and parking and maneuvering areas shall be surfaced with one of the following: three inches of decomposed granite, three inches of compacted rock dust, three inches of gravel, or three inches of a material of a higher quality.
- (22) Vehicle parking spaces shall be 9 feet by 20 feet or larger in size, except as provided in Sections 19.82.030 and 19.82.040 of the Zoning Ordinance.
- (23) Parking lot or site illumination shall be directed away from adjoining properties and public roads.
- (24) All signs shall be approved by the Director of the Kern County Department of Planning and Development Services prior to installation.
- (25) During all on-site grading and construction activities, adequate measures shall be implemented to control fugitive dust.
- (26) The site shall be closed to the general public and there shall be no retail sales conducted on site.
- (27) A facility employee shall be present when incoming waste shipments are received. The facility gate shall be locked when no employees are present.
- (28) Compost biosolids utilized in the composting process shall be only those generated from the Lamont Public Utility District. No other biosolids shall be accepted at the site.
- (29) No manifested shipments of hazardous waste materials shall be received.
- (30) Unless exempted by the Kern County Environmental Health Services Department, the applicant shall submit an annual groundwater quality analysis that shall be subject to the approval of the Kern County Water Agency and Environmental Health Services. A copy of the approved analysis shall be provided to the Kern County Department of Planning and Development Services.
- (31) If the investigation of a public complaint results in the determination of public nuisance odor from the composting facility, the San Joaquin Valley Unified Air Pollution Control District shall determine whether deliveries or acceptance of additional materials shall cease until such time as odor problems are resolved.
- (32) The composting operation shall be conducted in such a manner that a nuisance or public health hazard does not result from noise, insects, or other causes, as determined by the Kern County Environmental Health Services Department and the applicable mosquito abatement district.
- (33) A dust control Plan shall be submitted for review and approval by the Director of the Kern County Department of Planning and Development Services and the Kern County Environmental Health Services Department. Said plan may be submitted in conjunction with the required operations plan.
- (34) Trucks shall be washed down before leaving the site to assure that no sludge, mud, or debris will be tracked onto public roads. Wash-down water shall be contained and disposed of in accordance with requirements of the Regional Water Quality Control Board or Environmental Health Services.
- (35) All loaded trucks making deliveries to, or leaving the site shall be sealed or covered in such a manner as to prevent the blowing or loss of any material being transported.
- (36) The number of trucks delivering bulking agents/materials for the composting facility shall be limited to 100 trucks per day. The Director of the Kern County Department of Planning and Development Services may authorize an increase of up to 25 additional trucks per day. Additional increases in truck traffic shall require a formal amendment to this condition at a public hearing.

- (37) Prior to the commencement of operations, the applicant shall file an Operations Plan with Planning and Development Services that details and clarifies the following:
- (a) Facility operations and procedures including load checking, daily weight/volume log, compost heap content log, compost temperature monitoring, maintenance of access roads, compost leachate controls, and the abatement controls of vectors, odor, noise, dust, and litter.
  - (b) Any siting requirements.
  - (c) Location of lighting.
  - (d) Said plan shall be updated and submitted bi-annually unless the applicant submits written notification to the Director of the Kern County Department of Planning and Development Services that there have been no changes in facility operations.
  - (e) A summary of daily weight/volume log information shall be submitted to the Director of the Kern County Department of Planning and Development Services and the Kern County Waste Management Department on a quarterly basis. A summary of composting source material contents shall also be submitted on a quarterly basis.
- (38) This permit shall become null and void if the use authorized has not been activated within a one-year period of time of the approval of said permit, unless an extension of time has been granted by the decision-making authority, upon written request before expiration of the one-(1-) year period.
- (39) The applicant shall comply with all federal, State, and local quarantine regulations concerning the importation and movement of plant products and fruit into Kern County.
- (40) The applicant shall work closely with the Kern County Agricultural Commissioner's office and the California Department of Food and Agriculture by entering into a compliance agreement concerning the importation of plant products and fruit from quarantined areas into Kern County.
- (41) A Pest Detection, Trapping, and Monitoring Program shall be approved by the Kern County Agricultural Commissioner to ensure that new and exotic pests are detected early.
- (42) Stockpiles of stabilized compost shall not exceed 15 acres in size and 10 feet in height for the first year, and 15 acres in size and 15 feet in height from then on.
- (43) The applicant shall follow guidelines currently being promulgated by the California Integrated Waste Management Board under Title 14, Chapter 3.1., Article 3, Design and Operating Requirements for Green Composting Facilities.
- (44) The applicant shall employ perimeter landscaping, to be approved by the Director of the Kern County Department of Planning and Development Services, to mitigate visual concerns and the potential for blowing dust or debris.
- (45) Upon termination of the approved use, the applicant shall be responsible for removing all stockpiled material; and

\* DENOTES MITIGATION MEASURES

- (c) Noncompliance with the adopted conditions of approval may cause permit revocation proceedings in accordance with Section 19.102.020 of said Ordinance Code; and
- (d) The findings of this Board upon which its decision is based are as follows:

- (1) The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.
- (2) This project and any activities and improvements authorized thereunder will not have a significant effect on the environment and an environmental impact report was not required for consideration of such matter.
- (3) The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not be substantial and will not interfere with maintenance of a high-quality environment now or in the future.

- (4) The proposed use is consistent with the goals and policies of the General Plan.
- (5) The proposed use is consistent with the purpose of the applicable district or districts.
- (6) The proposed use is listed as a use subject to a conditional use permit in the applicable zoning district or districts or a use determined to be similar to a listed conditional use in accordance with the procedures set out in Section 19.08.060.
- (7) The proposed use meets the minimum requirements of this chapter applicable to the use and complies with all other applicable laws, ordinances, and regulations of the County of Kern and the State of California.
- (8) The proposed use will not be materially detrimental to the health, safety, and welfare of the public or to property and residents in the vicinity.
- (9) Approval of the requested conditional use permit will be beneficial to the local agricultural community by providing environmentally safe soil amendments from bulking agents that would have typically been disposed of at landfills.
- (10) Based on the absence of evidence in the record as required by Section 21082.2 of the State of California Public Resources Code (CEQA) for the purpose of documenting significant effects, it is the conclusion of this Board that this project will have impacts that fall below the threshold of significance with regard to wildlife resources and, therefore, must be granted a 'de minimis' exemption in accordance with Section 711 of the State of California Fish and Game Code. Additionally, the assumption of adverse effect is rebutted by the above-referenced absence of evidence in the record and the Lamont Public Utility District's decision as Lead Agency to prepare a Negative Declaration for this project; and

(e) The Secretary of this Board shall cause a Notice of Determination to be filed with the County Clerk; and

(f) The Secretary of this Board shall cause copies of this resolution to be transmitted to the following:

Community Recycling and Resource Recovery, Inc., by Dennis Judd (applicant) (1)  
 Lamont Public Utilities District (owner) (1)  
 Regional Water Quality Control Board/Central Valley (1)  
 Kern County Water Agency (1)  
 CalTrans/District 6 (1)  
 Kern County Agricultural Commissioner (1)  
 Kern County Mosquito Abatement District (1)  
 San Joaquin Valley Unified Air Pollution Control District (1)  
 Kern County Transportation Management Department/Roads (1)  
 Kern County Environmental Health Services Department (1)  
 Kern County Fire Department (1)  
 Kern County Engineering and Survey Services Department (1)  
     Building Inspection Division (1)  
     Floodplain Management Section (1)  
     Zoning Enforcement Officer (1)  
 Kern County Assessor/Chief, Realty Division (1)  
 Kern County Supervisors  
     #1 Ashburn (1)  
     #2 Austin (1)  
     #3 Larwood (1)  
     #4 Peterson (1)  
     #5 Shell (1)  
 File (3)

esp:slb:esp

**Appeal of Original Approval of CUP (approval upheld by BOS)**

**08/30/1993**

BOS Hearing

Resolution 93-585 adopted denying appeal and upholding BZA decision.

Also modified conditions 12, 30 and added 46.

Appeal of  
Original  
Project  
Approval

BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of:

Resolution No. 93-585

Reference No. 9311241

APPEAL OF JACK PINHEIRO, ET AL. FROM  
DECISION OF THE BOARD OF ZONING ADJUSTMENT  
(BZA) RE: CUP 27, MAP 143; LAMONT AREA;  
DENY APPEAL, WHICH ACTION APPROVES CUP WITH CONDITIONS

I, SUE PICKETT, Clerk of the Board of Supervisors of the County of Kern, State of California, do hereby certify that the following resolution, on motion of Supervisor Austin, seconded by Supervisor Shell, was duly passed and adopted by said Board of Supervisors at an official meeting hereof this 30th day of August, 1993, by the following vote, to wit:

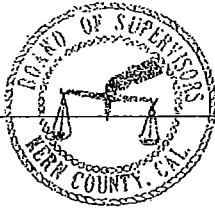
AYES: Ashburn, Austin, Larwood, Peterson, Shell

NOES: None

ABSENT: None

SUE PICKETT  
Clerk of the Board of Supervisors  
County of Kern, State of California

*Sylvia Johnson*  
Deputy Clerk



RESOLUTION

Section 1. WHEREAS:

(a) Community Recycling and Resource Recovery, Inc. applied for a conditional use permit (CUP) to allow a composting facility in an A (Exclusive Agriculture) District on property located 1/4 mile south of Bear Mountain Boulevard, 1/2 mile west of Wheeler Ridge Road, 3 1/2 miles south of Lamont; and

(b) After a noticed public hearing, the Board of Zoning Adjustment (BZA) adopted its Resolution No. 72-93 on July 8, 1993, approving the request for a CUP for such purpose upon conditions; and

(c) Jack Pinheiro, et al. timely filed a notice of appeal to this Board from the decision of the BZA; and

# 93-585



(d) Notice of said hearing before this Board on such appeal was duly given by the Clerk of this Board; and

(e) This Board duly conducted a public hearing on the appeal and heard and considered testimony and received evidence from the appellant and from members of the public; and

(f) The Department of Planning and Development Services has reviewed this matter, including the complete record of the BZA, and prepared a report recommending denial of the appeal, a copy of which has been on file in the office of the Clerk of this Board available for examination during regular business hours by any interested person since the date of giving notice in this matter; and

(g) The Lamont Public Utility District has issued a Certificate of Fee Exemption for this action pursuant to Title 14, California Code of Regulations section 753.5(c), on the basis that there is no evidence that the proposed project will have potential for adverse effect on wildlife resources; and

(h) The Lamont Public Utility District has investigated possible environmental impacts of the project and prepared a Negative Declaration and a Mitigation Monitoring Program in conjunction with a related project, namely the Lamont Public Utility District lease of the premises, after concluding this activity (including the mitigation measures to be incorporated into the project) may not have a significant effect on the environment; the Department of Planning and Development Services has considered this document for adoption by the Board of Supervisors, acting as a responsible agency, in issuing a CUP for the project, and found it to be adequate when additional mitigation measures are imposed; and

(i) This Board has considered the recommendation of the Department of Planning and Development Services, the entire record in the matter, and all the testimony presented during said public hearing, after which said hearing was concluded;

Section 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Kern, State of California, as follows:

1. This Board finds the facts recited hereinabove are true, makes the recommended findings for each project approval, and further finds that this Board has jurisdiction to consider, approve, and adopt the subject of this Resolution.

2. This Board finds and determines that the applicable provisions of the California Environmental Quality Act of 1970, the State CEQA Guidelines and the Kern County Guidelines have been duly observed in conjunction with said hearing and the considerations of this project and all of the previous proceedings related hereto.

3. This Board hereby adopts and amends the said Negative Declaration and the proposed Mitigation Monitoring Program, attached hereto as Exhibit "A", and finds and determines that the proposed project may not have a significant effect on the environment provided the mitigation measures incorporated into the project (as more fully described in the Negative Declaration) are accomplished, and that an Environmental Impact Report (EIR) is therefore not required. In accordance with the State CEQA Guidelines, this Board does hereby find that the aforementioned subject of this Resolution is essentially the same, in terms of environmental impact, as the project considered in the lead agency project's Negative Declaration, namely the Lamont Public Utility District lease of the premises, and further finds that the environmental effects of the project are similar enough to warrant the same treatment, and further, that the Negative Declaration, as amended, will adequately cover the impact of the project approved by denial of the pending appeal.

4. This Board hereby finds and declares that an initial study has been conducted to evaluate the potential for adverse environmental impact, and there is no evidence that the project approved herein will have potential for adverse effect on wildlife resources, on which basis it is exempt.

5. After careful consideration of all facts and evidence presented at said hearing, this Board finds that the applicant/appellant has failed to meet his burden of proof and, therefore, denies the appeal and sustains the decision of the BZA in approving the CUP, with the addition of a new condition requiring financial assurances for site restoration after operations close, and amending conditions 12 and 30 to require a Solid Waste Facility Permit and annual groundwater quality analysis. The revised conditions are attached hereto as Exhibit "B".

6. In approving said appeal this Board finds as follows:

(a) Approval of the CUP will benefit local greenwaste diversion programs and extend the life of local landfills.

(b) This project will allow the Lamont Public Utility District to get rid of wastewater in wet years and assist in minimizing the cost of sewer services to County residents.

(c) Due to state pest quarantine and other agricultural regulations, there is no risk that pests will be imported or encouraged by the compost operation as conditioned.

(d) The compost produced will primarily benefit soils in Kern County, since such facilities are most economically located near the end users of the compost product, to minimize shipping costs.

(e) The proposed use will not be materially detrimental to the health, safety and welfare of the public or to property and residents in the vicinity.

7. The Clerk of this Board shall cause a Notice of Determination, prepared by County Counsel, to be filed with the County Clerk. Because the project is declared exempt herein and a Certificate of Fee Exemption executed by the Lamont Public Utility District is on file, the foregoing project is now operative, vested and final since the filing fees required pursuant to Fish and Game Code section 711.4 are not required to be paid by the applicant to the County Clerk.

8. The Clerk of this Board shall cause copies of  
this Resolution to be sent to the following:

Jack Pinheiro, et al. (applicant)  
5021 East Bear Mountain Boulevard  
Bakersfield, CA 93307

Dept. of Planning & Development Services

County Counsel

ED:drb  
Donna  
Pinhero.apl

Monitoring Program  
for  
CR&RR Composting Project

1. Mitigation Measures:
  - a. Because the general area is known to contain some endangered species of wildlife a pre-construction survey will be conducted not more than fourteen (14) days prior to beginning construction.
  - b. Because the area lies with in a 100 year flood plain a berm will be constructed for the purpose of diverting flood waters and protecting the project. Any structures will meet county regulation for this flood zone.
  - c. Any compost made from LPUD bio-solids will remain on District owned property or be used after notifying the Regional Quality Control Board.
  - d. Dust control will be used to reduce the effects of wind and traffic on roads and windrows will be maintained to prevent spreading by high winds.
  - e. Engineering design and operating permit design requirements as specified in the Waste Discharge Requirements and Conditional Use Permit will be met and will reduce environmental impacts to less than significant levels.

2. Justification: This project will provide a valuable product to the local agriculture industry and will reduce the use of chemical fertilizer. It will also reduce the amount of green waste going into local landfills. The project will use waste water currently being generated by the community of Lamont and will allow for future expansion.

The project will not adversely effect any current business are agriculture project. It will not substantially reduce agriculture. There will be no substantial advise effect on fish, wildlife or plant life.

3. Trustee Agencies	Jurisdiction	
	yes	no
Department of Fish And Game	___	___
Regional Water Quality Control Board	___	___
Department of Health Services	___	___
Kern Mosquito Abatement District	___	___
Kern Planning & Development Department	___	___

4. Monitoring Agency/Firm: Lamont Public Utility District
5. Procedure - Steps to Compliance:
  - a. Pre-construction survey
  - b. Building of a three foot high berm on the north and

**EXHIBIT A**

- east sides of the project.
- c. Improvement of existing roads with rock dust and dampening.
- d. Notification of The regional Water Quality Control Board. When compost is to be made from biosolids generated by the Lamont Public Utility District sewage treatment facility.
- e. Conditional Use Permit obtained.

6. Compliance:

	Signed by	Date
a.	_____	_____
b.	_____	_____
c.	_____	_____
d.	_____	_____
e.	_____	_____

7. Comments:

## CONDITIONS

- (1) All necessary building permits must be obtained.
  - (2) Fire flows and fire protection facilities shall be as required and approved by the Kern County Fire Department.
  - (3) Prior to commencement of operation, the applicant shall provide a plan for the disposal of drainage waters originating on site and from adjacent road rights-of-way, subject to the approval of the Engineering and Survey Services Department, per the Kern County Subdivision Standards.
  - (4) Prior to commencement of operation, the applicant's engineer shall provide a study that demonstrates the off-site drainage and/or flood waters are received and discharged in basically the same location and manner as prior to development. Should diversion of water be necessary as part of a comprehensive plan, sufficient work shall be done upstream and downstream to provide other affected properties at least the same level of flood protection as prior to development.
  - (5) Prior to commencement of operation, the applicant's engineer shall provide a study that mitigates the potential for the addition of floatable substances and/or debris from this project to the flood flows of Caliente Creek, as determined, and to be approved by the Engineering and Survey Services Department.
  - (6) Prior to commencement of operation, the plan shall be reviewed and approved by the responsible mosquito abatement district.
  - (7) The development shall comply with any requirements of the San Joaquin Valley Unified Air Pollution Control District.
  - (8) The applicant shall record an irrevocable offer of dedication to the State of all subject property within 55 feet (major highway alignment) of the centerline of Bear Mountain Boulevard. Should the State refuse the offer, it shall be made to the County.
  - (9) Under encroachment permit issued by CalTrans, the applicant shall improve the project frontage as required by the State. Improvements may include widening and channelization.
  - (10) Prior to commencement of operations, the applicant shall submit a modified plot plan detailing the location and size of the office and laboratory. Additional parking spaces may be required as a result of this review.
  - (11) No structures shall be located within 70 feet of the north/south midsection line of the project section.
12. Following application for a Solid Waste Facility Permit, the applicant may commence facility construction. This approval precludes the receipt or stockpiling of wastes prior to completion of the permit process.
- \*(13) A note shall be placed on the grading plan that acknowledges that a preconstruction biota survey shall be conducted prior to ground disturbance. Any listed mitigation measures shall be complied with prior to ground disturbance.
  - \*(14) Prior to commencement of operations, a berm shall be constructed for the purpose of diverting flood waters and protecting the project. Design of the berm will be subject to the approval of Engineering and Survey Services.
  - \*(15) Any compost made from Lamont Public Utilities District (PUD) biosolids will remain on District owned property or be used after notifying and gaining approval from the Regional Water Quality Control Board.
  - \*(16) Dust control will be used to reduce the effects of wind and traffic on roads, and windrows will be maintained to prevent spreading by high winds.
  - \*(17) Engineering design and operating permit design requirements as specified by the Waste Discharge Requirements will be strictly adhered to.
  - (18) No composting activities of any type shall occur on the easterly 160 acres denoted on the plot plan as "emergency effluent storage" (APN 185-350-55).

EXHIBIT B

- (19) Prior to commencement of operations, the applicant shall obtain all permits and comply with any requirements of the Regional Water Quality Control Board, and any other responsible federal, State, or local agency.
- (20) Security fencing, as approved by the Kern County Department of Planning and Development Services, shall be constructed around the perimeter of the composting site.
- (21) All vehicle access roads and parking and maneuvering areas shall be surfaced with one of the following: three inches of decomposed granite, three inches of compacted rock dust, three inches of gravel, or three inches of a material of a higher quality.
- (22) Vehicle parking spaces shall be 9 feet by 20 feet or larger in size, except as provided in Sections 19.82.030 and 19.82.040 of the Zoning Ordinance.
- (23) Parking lot or site illumination shall be directed away from adjoining properties and public roads.
- (24) All signs shall be approved by the Director of the Kern County Department of Planning and Development Services prior to installation.
- (25) During all on-site grading and construction activities, adequate measures shall be implemented to control fugitive dust.
- (26) The site shall be closed to the general public and there shall be no retail sales conducted on site.
- (27) A facility employee shall be present when incoming waste shipments are received. The facility gate shall be locked when no employees are present.
- (28) Compost biosolids utilized in the composting process shall be only those generated from the Lamont Public Utility District. No other biosolids shall be accepted at the site.
- (29) No manifested shipments of hazardous waste materials shall be received.
- 30. The applicant shall submit an annual groundwater quality analysis that shall be subject to the approval of the Kern County Water Agency and Environmental Health Services. A copy of the approved analysis shall be provided to the Kern County Department of Planning and Development Services.
- (31) If the investigation of a public complaint results in the determination of public nuisance odor from the composting facility, the San Joaquin Valley Unified Air Pollution Control District shall determine whether deliveries or acceptance of additional materials shall cease until such time as odor problems are resolved.
- (32) The composting operation shall be conducted in such a manner that a nuisance or public health hazard does not result from noise, insects, or other causes, as determined by the Kern County Environmental Health Services Department and the applicable mosquito abatement district.
- (33) A dust control Plan shall be submitted for review and approval by the Director of the Kern County Department of Planning and Development Services and the Kern County Environmental Health Services Department. Said plan may be submitted in conjunction with the required operations plan.
- (34) Trucks shall be washed down before leaving the site to assure that no sludge, mud, or debris will be tracked onto public roads. Wash-down water shall be contained and disposed of in accordance with requirements of the Regional Water Quality Control Board or Environmental Health Services.
- (35) All loaded trucks making deliveries to, or leaving the site shall be sealed or covered in such a manner as to prevent the blowing or loss of any material being transported.
- (36) The number of trucks delivering bulking agents/materials for the composting facility shall be limited to 100 trucks per day. The Director of the Kern County Department of Planning and Development Services may authorize an increase of up to 25 additional trucks per day. Additional increases in truck traffic shall require a formal amendment to this condition at a public hearing.



(37) Prior to commencement of operations, the applicant shall file an Operations Plan with Planning and Development Services that details and clarifies the following:

- (a) Facility operations and procedures including load checking, daily weight/volume log, compost heap content log, compost temperature monitoring, maintenance of access roads, compost leachate controls, and the abatement controls of vectors, odor, noise, dust, and litter.
- (b) Any siting requirements.
- (c) Location of lighting.
- (d) Said plan shall be updated and submitted bi-annually unless the applicant submits written notification to the Director of the Kern County Department of Planning and Development Services that there have been no changes in facility operations.
- (e) A summary of daily weight/volume log information shall be submitted to the Director of the Kern County Department of Planning and Development Services and the Kern County Waste Management Department on a quarterly basis. A summary of composting source material contents shall also be submitted on a quarterly basis.

(38) This permit shall become null and void if the use authorized has not been activated within a one-year period of time of the approval of said permit, unless an extension of time has been granted by the decision-making authority, upon written request before expiration of the one-(1-) year period.

(39) The applicant shall comply with all federal, State, and local quarantine regulations concerning the importation and movement of plant products and fruit into Kern County.

(40) The applicant shall work closely with the Kern County Agricultural Commissioner's office and the California Department of Food and Agriculture by entering into a compliance agreement concerning the importation of plant products and fruit from quarantined areas into Kern County.

(41) A Pest Detection, Trapping, and Monitoring Program shall be approved by the Kern County Agricultural Commissioner to ensure that new and exotic pests are detected early.

(42) Stockpiles of stabilized compost shall not exceed 15 acres in size and 10 feet in height for the first year, and 15 acres in size and 15 feet in height from then on.

(43) The applicant shall follow guidelines currently being promulgated by the California Integrated Waste Management Board under Title 14, Chapter 3.1, Article 3, Design and Operating Requirements for Green Composting Facilities.

(44) The applicant shall employ perimeter landscaping, to be approved by the Director of the Kern County Department of Planning and Development Services, to mitigate visual concerns and the potential for blowing dust or debris.

45. Upon termination of the approved use, applicant shall remove all stockpiled compost and feedstocks within 30 days.

46. Prior to the commencement of operations, the applicant shall file approved financial assurances guaranteeing the removal of compost and feedstocks upon termination of the approved use. The applicant shall first submit information and estimates of removal cost to the Director of the Department of Planning and Development Services, who shall thereafter establish, in his sole discretion, the amount of the assurances that shall be required hereunder. The required assurances shall be approved as to form and content by the Director prior to filing with the Department of Planning and Development Services. Individual sureties are not acceptable as assurances. Surety bonds must be issued by a corporate entity licensed to do surety business in the State of California. In lieu of the foregoing assurances, the Director is authorized to accept assurances filed by the applicant with the California Integrated Waste Management Board, if he finds in his sole discretion that such assurances are adequate in amount and format.

\* DENOTES MITIGATION MEASURES

- Au-Pe \* 4)  
All Ayes  
9311920
- Amendment of Zoning Map No. 143-18, Zone Change Case No. 9; Kenneth and Loretta Henry by Cornerstone Engineering; 14201 Costajo Street, Bakersfield; A change in zone classification from A (Exclusive Agriculture) to A-1 MH (Limited Agriculture - Mobilehome Combining) or a more restrictive district; DP&DS recommendation: Approve zone change as requested; Categorically Exempt, Section 15301 (SD 2) (Bakersfield Californian) - (Tape 1318) OPENED HEARING; NO ONE HEARD; CLOSED HEARING; ADOPTED RESOLUTION 93-584 AND ENACTED ORDINANCE G-6005 APPROVING ZONE CHANGE AS REQUESTED
- Au-Sh 5)  
All Ayes  
9311241  
9311920
- Appeal Case No. 2, Map No. 143; Jack Pinheiro, et al; 1/4 mile south of Bear Mountain Boulevard, 1/2 mile west of Wheeler Ridge Road, 3 1/2 miles south of Lamont; An appeal of the decision of the Board of Zoning Adjustment to approve a conditional use permit (CUP 27, Map 143) authorizing a composting facility (Section 19.12.030.H) in an A (Exclusive Agriculture) District; DP&DS recommendation: Adopt Negative Declaration and Mitigation Measure Monitoring Program; Deny appeal and uphold the decision of the Board of Zoning Adjustment; Negative Declaration (SD 2) (Bakersfield Californian) - (Tapes 1218 & 1319) OPENED HEARING; JOHN RICHARD, COMMUNITY RECYCLING AND RESOURCE RECOVERY; JEFF THOMPSON AND TIM DUNN, CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD AND PASTOR JIM WILLIAMS HEARD IN SUPPORT OF RECOMMENDATION; RECEIVED AND FILED DOCUMENTS; STEVE GREENFIELD, SUPERINTENDENT OF VINELAND SCHOOL DISTRICT; DANA PINHEIRO-OLDENKAMP AND DICK PORTER, PORTER FARMS HEARD IN OPPOSITION TO RECOMMENDATION; DENNIS DICKEY, LAMONT PUBLIC UTILITY DISTRICT; TED DAVIS, DIRECTOR OF KERN COUNTY AGRICULTURE DEPARTMENT AND STEVE McCALLEY, DIRECTOR OF ENVIRONMENTAL HEALTH HEARD; CLOSED HEARING; ADOPTED NEGATIVE DECLARATION AND MITIGATION MEASURE MONITORING PROGRAM WITH MODIFICATIONS TO CONDITIONS #12 & #30 AND ADDING CONDITION #46 REQUIRING FINANCIAL ASSURANCES THAT MATERIAL WILL BE REMOVED FROM THE SITE IF OPERATIONS CEASE; ADOPTED RESOLUTION 93-585 DENYING APPEAL AND UPHOLDING THE DECISION OF THE BOARD OF ZONING ADJUSTMENT, SUBJECT TO CONDITIONS

DEPARTMENTAL REQUESTS

RESOURCE MANAGEMENT AGENCY

Planning and Development Services

Land Use

S.D. 2

- Au-Pe \* 6)  
All Ayes  
9311946
- Request for three-year extension of time to record the final map for Tract 5187; northeast corner of Rosamond Blvd. and Werner Street, Rosamond area - APPROVED THREE-YEAR EXTENSION OF TIME TO RECORD FINAL MAP FROM SEPTEMBER 10, 1993 TO SEPTEMBER 10, 1996, SUBJECT TO CONDITIONS APPROVED BY THE BOARD ON SEPTEMBER 10, 1990
- Au-Pe \* 7)  
All Ayes  
9311946
- Request for three-year extension of time to record the final map for Tract 5235; southwest corner of Prospect Street and Roberts Avenue, Boron area - APPROVED THREE-YEAR EXTENSION OF TIME TO RECORD FINAL MAP FROM JULY 16, 1993 TO JULY 16, 1996, SUBJECT TO CONDITIONS APPROVED BY THE BOARD ON JULY 16, 1990

**Modification No. 1 of CUP**

**03/11/1999**

PC Hearing

Resolution 72-93 amended to revise condition no. 36 and

ADD conditions 47 through 51.

PLANNING DEPARTMENT

TED JAMES, AICP, Director  
2700 "M" STREET, SUITE 100  
BAKERSFIELD, CA 93301-2323  
Phone: (661) 862-8600  
FAX: (661) 862-8601 TTY Relay 1-800-735-2929  
E-Mail: [planning@co.kern.ca.us](mailto:planning@co.kern.ca.us)  
Web Address: [www.co.kern.ca.us/planning/info.htm](http://www.co.kern.ca.us/planning/info.htm)



RESOURCE MANAGEMENT AGENCY

DAVID PRICE III, RMA DIRECTOR  
Community Development Program Department  
Engineering & Survey Services Department  
Environmental Health Services Department  
Planning Department  
Roads Department

CORRECTED

March 23, 1999

FILE: CUP #27, Map #143

Community Recycling and Resource Recovery, Inc. (PP99209)  
P.O. Box 716  
Lamont, CA 93241-0716

Re: Conditional Use Permit Case No. 27, Map No. 143

Ladies and Gentlemen:

At its regular meeting of March 11, 1999, the Kern County Planning Commission considered your request for Modification of a Conditional Use Permit for the above-referenced case.

A Modification of a Conditional Use Permit to allow the expansion of the facility onto an additional 50 acres and to modify conditions of approval accordingly for this Conditional Use Permit (Resolution 72-93; approved July 8, 1993) which allowed a composting facility on approximately 70 acres (Section 19.12.030.H), in an A (Exclusive Agriculture) District was approved, subject to original conditions of approval with the amendment of Condition 36 and the addition of Conditions 47 thru 51 as follows:

- (36) The number of trucks delivering bulking agents and/or feedstocks to the composting facility shall be limited to 150 per day. Additional increases in truck traffic shall require a formal amendment to this condition at a regularly advertised public hearing.
- (47) Prior to utilization of the 50-acre expansion site for active windrow area, the applicant shall submit written documentation of compliance with the following:
  - (a) All necessary grading permits shall be obtained.
  - (b) A plan for the disposal of drainage waters originating on site and from adjacent road rights-of-way shall be approved by the Kern County Engineering and Survey Services Department/Floodplain Management Section, if required. Easements or grant deeds shall be given to the County of Kern for drainage purposes or access thereto, as necessary.
  - (c) Associated flood hazard requirements will need to be incorporated into the design of this project, subject to the approval of the Floodplain Management Section of the Kern County Engineering and Survey Services Department.
  - (d) The applicant shall comply with any and all requirements, including Waste Discharge Requirements, of the California Regional Water Quality Control Board.


- (e) The applicant shall amend the Nondisposal Facility Element of the Countywide Integrated Waste Management Plan in accordance with the requirements of the Kern County Waste Management Department.
  - (f) The applicant shall revise the existing Solid Waste Facility Permit in accordance with the requirements of the Kern County Environmental Health Services Department.
  - (g) The applicant shall comply with any and all requirements of PG&E to ensure that existing gas transmission facilities within the boundaries of the project site are protected. Any recommendations made by PG&E shall be incorporated into development of the project site.
  - (h) The applicant shall submit an updated receive and discharge study to the Kern County Engineering and Survey Services Department for review and approval.
  - (i) The applicant shall submit supplemental financial assurances in the additional amount of \$60,000, in accordance with Condition 46 of the permit.
  - (j) Under encroachment permit issued by the Kern County Roads Department, the applicant shall install one paved heavy industrial or agricultural private road approach and a paved connecting "apron" with a paved length of 100 feet and a paved width of 20 feet. If any obstructions, including utility poles and lines, trees, pole signs, and similar obstructions are deemed a hazard or a sight distance problem, it will be the responsibility of the applicant to alleviate the problem either by making the situation agreeably safe with the Roads Department or by removing the obstruction entirely from the ultimate road right-of-way, which may result in significant financial expenditure.
  - (k) The applicant shall submit a plan for the operation of scarabs and the stationary screening area to the Kern County Environmental Health Services Department for review and approval to ensure that odors are minimized.
- (48) The applicant shall notify the Department of Conservation/Division of Oil, Gas, and Geothermal Resources to determine if remedial operations are required in the event that excavation or grading operations uncover a previously unknown well.
  - (49) If cultural resources are encountered during the course of development, the applicant shall notify the Kern County Planning Department and consult with a qualified archaeologist for further evaluation prior to resuming development activities. Any measures recommended by the archaeologist shall be forwarded in writing to the Kern County Planning Department and incorporated into subsequent development design.
  - (50) A minimum setback of 100 feet from the legal centerline of Bear Mountain Boulevard (State Route 223) to the northernmost point of any windrow shall be continuously maintained.

- (51) If the Kern County Environmental Health Services Department determines that the on-site sump is the source of nuisance odors, the applicant shall comply with any and all remedial measures as recommended by that department. These measures may include the installation of aerators, the introduction of masking agents, or other measures deemed appropriate by that department.

If we may be of further assistance to you, please do not hesitate to contact Colleen J. Gallo, Senior Planner ((661) 862-8619).

Very truly yours,

TED JAMES, AICP, Director  
Planning Department

  
By James E. Ellis, AICP  
Planning Operations Division Chief

jc

cc: Kern County Engineering and Survey Services Department  
Building Inspection Division  
Zoning Enforcement  
California Regional Water Quality Control Board  
Kern County Waste Management Department  
Kern County Environmental Health Services Department  
PG&E  
Kern County Roads Department  
Department of Conservation/Division of Oil, Gas, and Geothermal Resources

Zi/St  
4 Ayes  
1 Ab/Ba

Res. #60-00  
Res. #61-00

- \*8. ZONE CHANGE CASE #10, MAP #103-33; ZONE VARIANCE #16, MAP #103-33 - (a) A change in zone classification from R-3 (High-density Residential) to C-2 (General Commercial) or a more restrictive district; (b) To allow 15 parking spaces where 20 parking spaces are required (Section 19.82.020) in a C-2 District - Southwest corner of Bates Avenue and East California Avenue, Bakersfield - **STAFF RECOMMENDATION: RECOMMEND BOARD OF SUPERVISORS TO APPROVE** - Negative Declaration - (SD #5) - La Bonita, Inc. by Marino and Associates (PP00227). HEARING OPENED; THE APPLICANT WAS IN ATTENDANCE; THERE BEING NO ONE WISHING TO BE HEARD IN OPPOSITION, HEARING CLOSED; RESOLUTION ADOPTED RECOMMENDING BOARD OF SUPERVISORS ADOPT NEGATIVE DECLARATION AND TO APPROVE THE APPLICATIONS.

**REQUEST FOR MODIFICATION OF CONDITIONAL USE PERMIT:**

Zi/St  
3 Ayes  
1 Abd/Ro  
1 Ab/Ba

9. CONDITIONAL USE PERMIT #27, MAP #143 - A Modification of a Conditional Use Permit to precisely identify the boundaries of the facility and to modify conditions of approval accordingly for this Conditional Use Permit (Resolution 72-93, approved July 8, 1993), which authorized a composting facility on 70 acres (Section 19.12.030.H) in an A (Exclusive Agriculture) District - 1261 North Wheeler Ridge Road, approximately two miles south of Lamont - **STAFF RECOMMENDATION: APPROVE MODIFICATION OF THE CONDITIONAL USE PERMIT SUBJECT TO THE ORIGINAL CONDITIONS OF APPROVAL, THE AMENDMENT OF CONDITION 31, AND THE ADDITION OF TWO NEW CONDITIONS AS RECOMMENDED BY STAFF** - Negative Declaration - (SD #2) - Community Recycling and Resource Recovery, Inc. HEARING OPENED; THERE BEING NO ONE WISHING TO BE HEARD IN OPPOSITION, HEARING CLOSED; ADOPTED NEGATIVE DECLARATION; APPROVED MODIFICATION OF THE CONDITIONAL USE PERMIT SUBJECT TO THE ORIGINAL CONDITIONS OF APPROVAL, THE AMENDMENT OF CONDITION 31, AND THE ADDITION OF TWO NEW CONDITIONS.

**REQUEST FOR AMENDMENT OF CONDITION:**

Zi/St  
All Ayes  
1 Ab/Ba

- \*10. CONDITIONAL USE PERMIT #44, MAP #103-35 - An Amendment of Condition 6 to allow a change in the expiration date for this Conditional Use Permit (Resolution 214-87, approved November 19, 1987) which authorized the installation of a commercial coach to be utilized for classrooms at an existing church (Section 19.16.030.J) in an E (1/2) RS (Estate - 1/2 acre - Residential Suburban Combining) District - 98 Sterling Road, east Bakersfield - **STAFF RECOMMENDATION: APPROVE AMENDMENT OF CONDITION AS REQUESTED** - Categorically Exempt, Section 15303 - (SD #5) - Unitarian Universalist Fellowship of Kern County by Loretta Blankenship. HEARING OPENED; THERE BEING NO ONE WISHING TO BE HEARD IN OPPOSITION, HEARING CLOSED; APPROVED AMENDMENT OF CONDITION AS REQUESTED.

# MODIFICATION OF A CONDITIONAL USE PERMIT

## KERN COUNTY PLANNING DEPARTMENT

### Planning Commission

### STAFF REPORT

Date: May 25, 2000

FILE: CUP #27, Map #143

S.D.: #2 - Perez

TITLE: Conditional Use Permit Case No. 27, Map No. 143

PROPOSAL: A Modification of a Conditional Use Permit to precisely identify the boundaries of the facility and to modify conditions of approval accordingly for this Conditional Use Permit (Resolution 72-93, approved July 8, 1993), which authorized a composting facility on 70 acres (Section 19.12.030.H) in an A (Exclusive Agriculture) District

APPLICANT: Community Recycling and Resource Recovery, Inc.

PROJECT SIZE: Approximately 190 acres

LOCATION: 1261 North Wheeler Ridge Road, approximately two miles south of Lamont

GENERAL PLAN DESIGNATION: 8.1 (Intensive Agriculture)

SURROUNDING LAND USE/ZONING: North - Irrigated farmland and Lamont Public Utility District wastewater treatment plant/A and A-1 (Limited Agriculture); East - Lamont Public Utility District wastewater treatment plant and fallow land/A-1 and A; South - Irrigated farmland/A; West - Dairy/A

PROJECT ANALYSIS: The project site consists of portions of two parcels encompassing approximately 190 acres and is located on the south side of East Bear Mountain Boulevard (State Route 223), approximately 1/2 mile west of North Wheeler Ridge Road. The site is developed with a composting facility that is operated by the applicant. Existing development within the boundaries of the facility includes approximately 83 acres of active composting area (windrows), 12 acres of berms and roadways, a 15-acre area for screening and stockpiling material, a seven-acre area for an office and shop, and a three-acre stormwater retention sump. There is also a 50-acre area representing the northwest corner of the facility that is proposed for additional windrows. This 50-acre area was incorporated into the facility through a previous modification of this conditional use permit that was approved by your Commission on March 11, 1999. The referenced development represents approximately 170 of the facility's 190 acres.

The composting process utilizes treated effluent from the Lamont Public Utility District (LPUD), together with bulking agents and feedstocks from off-site sources. The bulking agents and feedstocks include green yard materials, produce materials, packing plant materials, and/or prescreened and sorted biomass and screened street sweeping organics. The facility operates 24 hours per day, seven days per week. Composting is accomplished by utilizing the aerobic



windrow process. The facility does not accept off-site sewage biosolids (sludge), however, sludge from the LPUD is utilized approximately once every ten years when the district's oxidation ponds are cleaned. Compost that is produced at the site utilizing this sludge is not sold for off-site use. The majority of the bulking agents and feedstocks are transported to the facility by truck from the applicant's grinding facility in Sun Valley. Each truck load weighs approximately 25 tons. Finished compost is loaded into trucks for transport to end users or placed in the stockpiling area to await final disposition to end users. The facility is authorized by this conditional use permit to receive feedstock deliveries of up to 150 trucks per day (3,750 tons). As indicated in the applicant's operational statement, the maximum daily load capacity of the site, based on composting area size and typical windrow size, is 4,092 tons. This results in 1,276,704 tons per year through the facility. Since the composting process reduces the feedstock material by an average of 55 percent, 4,092 tons of input results in 1,841 tons of output per day.

A Negative Declaration was prepared in 1993 by the LPUD for the original composting facility. That document identifies the facility as being 70 acres in size, which does not include additional areas for screening and stockpiling, the office and shop, and the sump. A second Negative Declaration was prepared in 1999 by this Department for the 50-acre expansion area. That document focused solely on the impacts of the expansion area and did not address deficiencies in the first document. A third Negative Declaration was prepared for this modification to precisely identify the boundaries of the entire facility, which includes active composting areas as well as all accessory/support structures, uses, and areas. The preparation of the environmental document and the request for modification was necessitated when the applicant recently attempted to revise its Solid Waste Facility Permit with the California Integrated Waste Management Board (CIWMB). At that time, the CIWMB noted an inconsistency between what the previous Negative Declarations addressed and how the composting facility has actually been developed.

The Board of Zoning Adjustment (BZA) originally approved this conditional use permit subject to 45 conditions, including five mitigation measures to reduce potentially significant impacts related to biological resources, flooding, the use of biosolids, dust control, and groundwater quality. The owner of the adjacent dairy, along with several other residents in the vicinity, appealed the decision of the BZA to the Board of Supervisors (Board). The Board denied the appeal on August 30, 1993, although three conditions of approval were revised and one was added. When this conditional use permit was modified in 1999, one condition was revised to allow additional truck deliveries of bulking agents and feedstocks to the facility, and five new conditions were added.

Staff has notified the affected agencies, County departments, and property owners within 300 feet of the two parcels on which the facility is located. As previously referenced, a Negative Declaration was prepared for the modification of this conditional use permit. No mitigation measures were identified by the Negative Declaration. Staff has not received any comments from those property owners who were notified.

Staff believes that approval of this modification is warranted based on the continued operation of the facility for approximately the last seven years and the fact that the applicant is not proposing any changes to the operation. Approval of this modification would allow the applicant to proceed with revising its Solid Waste Facility Permit and complying with the conditions of approval required prior to utilization of the 50-acre expansion area. Based on a comment received from the

San Joaquin Valley Unified Air Pollution Control District, Staff recommends that Condition 31 of this permit be revised to read as follows:

- (31) If the investigation of a public complaint results in the determination of public nuisance odor from the composting facility, the Kern County Environmental Health Services Department shall determine whether deliveries or acceptance of additional materials shall cease until such time as odor problems are resolved.

Staff also recommends that, based on the purpose of this modification to identify the boundaries of the facility, the following conditions be added to the adopted conditions of approval:

- (52) This conditional use permit authorizes the operation of a composting facility on approximately 190 acres, the boundaries of which are defined by the following legal description:

The west 1/2 of Section 25, T31S, R28E, MDB&M, excepting therefrom the southerly 1,300 feet and the northerly 1,750 feet of the easterly 1,300 feet.

- (53) Development associated with the composting facility includes approximately 83 acres of active composting area (windrows), 50 acres of future windrows, 15 acres for screening and stockpiling material, 12 acres of berms and roadways, seven acres for an office and shop, and three acres for a stormwater retention sump.

**PUBLIC INQUIRY OR CORRESPONDENCE:** None at the time of writing

**CEQA ACTION:** Negative Declaration

**DEPARTMENT RECOMMENDATION:** Adopt Negative Declaration; approve modification of the conditional use permit subject to the original conditions of approval, the amendment of Condition 31, and the addition of two new conditions as recommended by Staff

JEE:ERN:jc

Attachments

# **EXHIBIT “B”**

**Table 1: Existing Category Descriptions and Tonnage Limits**  
**(As listed in 2000 Negative Declaration and as amended by Board of Supervisors on July 13, 2010 and February 22, 2011)**

<b>Feedstock Category</b>	<b>Description</b>	<b>Daily Tons</b>
Green Materials (1993)	Yard trimmings from residences & businesses that include grass clippings, tree trimmings, wood and wood fines, etc.	1250
Produce Materials (1993)	Discarded trimmings & spoiled fruits/vegetables from retail & warehouse distribution centers	1250
Soiled paper/sorted biomass (1993)	Soiled pre & post consumer paper products as generated at paper mills	500
Pre-Consumer Produce Products (2000)	Not defined	25
Packing Shed Materials (1993; 2000; 2011)	Trimmings & cull fruits/vegetables from local packing plants (1993); Liquid, semisolid, solid agricultural, wholesale/retail food process & food residuals to include restaurant food-waste	25
Street Sweeping Organics (2000)	Not defined	250
Cow Manure (2000)	Not defined	250
Lamont PUD Biosolids	Lamont PUD cleans 3500 tons of sludge out sewage settling ponds once every 5-10 years; resulting compost for use on interal Community Recycling landscaping only	-
Residential Food-Waste (Limited to <i>only</i> the City of Arvin and other Kern Communities per Board action on July 13, 2010)	Materials from the residential food-waste diversion programs from only the City of Arvin and any other <i>Kern County</i> residential food-waste diversion programs.	To be counted under "Green Materials" or "Produce Materials" tonnage limit
Amendments/Additives to be used in the composting process and/or in soil (2010)	Utilized by the facility since 1993, but not previously listed; applicant may continue to utilize gypsum, dolomite, fertilizers, humates & sulfur but may not utilize biomass ash.	Not Listed
<b>Total Maximum Daily Intake:</b>		<b>3750</b>

**PROOF OF SERVICE**

I am over the age of eighteen years and not a party to the within action; my business address is 1115 Truxtun Avenue, Fourth Floor, Bakersfield, CA 93301.

On the date last written below, I served the attached **NOTICE OF ORDER GRANTING EX PARTE APPLICATION FOR STAY OF ADMINISTRATIVE ORDER REVOKING CONDITIONAL USE PERMIT** on the party(ies) listed below, through their attorneys of record, if any, by facsimile transmission, by personal delivery or by placing true copies/originals thereof in sealed envelope(s) addressed/designated as shown below:

**A. BY MAIL** - I enclosed such document in sealed envelope(s) with the name(s) and address(es) of the person(s) served as shown on the envelope(s) and caused such envelope(s) to be deposited in the mail at Bakersfield, California. The envelope(s) was/were mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**B. BY OVERNIGHT SERVICE** - I caused each such envelope to be delivered by overnight service to the addressee(s) noted below.

**C. BY FACSIMILE SERVICE** - I placed such document in a facsimile machine (pursuant to *California Rules of Court*, Rule 2.301(3)) with the fax number of (661) 868-3805. Upon facsimile transmission of the document, I obtained a report from the transmitting facsimile machine stating that the facsimile transmission was complete and without error. A copy of the transmission report is attached to this Proof of Service pursuant to *California Rules of Court*, Rule 2.306(g).


**D. BY PERSONAL SERVICE** - I caused such envelope(s) to be delivered by hand to the addressee(s) listed below.

TYPE OF SERVICE	ADDRESSEE	FAX NO.
A	SEE ATTACHED PROOF OF SERVICE - MAILING LIST	

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (FEDERAL) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on **April 17, 2012**, at Bakersfield, California.

  
Dania Moser

PROOF OF SERVICE - MAILING LIST

TYPE OF SERVICE	ADDRESSEE	FAX NO.
A	RICHARD G. ZIMMER, ESQ. T. MARK SMITH, ESQ. CLIFFORD & BROWN 1430 TRUXTUN AVE., SUITE 900 BAKERSFIELD, CA 93301 <i>Attorneys for Community Recycling &amp; Resource Recovery</i>	(661) 322-3508
A	JOHN B. MARSHALL, ESQ. PAUL C. BANDUCCO, ESQ. LEWITT, HACKMAN, SHAPIRO, MARSHALL & HARLAN 16633 VENTURA BLVD., 11 <sup>TH</sup> FLOOR ENCINO, CA 91436 <i>Attorneys for Community Recycling &amp; Resource Recovery</i>	(818) 981-4764
A	LARRY F. PEAKE, ESQ. WALL, WALL & PEAKE 1601 "F" ST BAKERSFIELD, CA 93301 <i>Attorneys for Lamont Public Utility District</i>	(661) 327-8568